

(6) the maintenance of appropriate confidentiality of personal and medical information.

(d) The commissioner may adopt rules requiring payment of an annual fee in connection with registration. The fee may not exceed \$250.

Sec. 3. **ENFORCEMENT.** For a violation of a rule adopted under this article, the commissioner may take any action against a person engaged in the business of viatical settlements that may be taken under:

(1) Articles 1.10 and 1.10E of this code; or

(2) Article 1.10D of this code against a person engaged in a fraudulent insurance act.

Sec. 4. **RELATION TO OTHER INSURANCE LAWS.** Except as otherwise provided by this article or by rules adopted under this article, this code and any other insurance law of this state do not apply to the business of viatical settlements ~~[REGULATION BY BOARD. The board has exclusive jurisdiction in this state to regulate viatical settlements, regardless of form, other than transactions governed by The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes)].~~

SECTION 2. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1995.

(b) Section 3, Article 3.50-6A, Insurance Code, as added by this Act, takes effect January 1, 1996.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on March 30, 1995, by a non-record vote; the House refused to concur in Senate amendments to H.B. No. 2256 on May 26, 1995, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on H.B. No. 2256 on May 28, 1995, by a non-record vote; passed by the Senate, with amendments, on May 24, 1995: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.B. No. 2256 on May 29, 1995, by a viva-voce vote.

Approved June 16, 1995.

Effective September 1, 1995, except as provided in Section 2.

CHAPTER 933

H.B. No. 2294

AN ACT

relating to the regulation of groundwater; granting the power of eminent domain.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. The caption of Title 2, Water Code, is amended to read as follows:

TITLE 2. ~~[STATE]~~ WATER ADMINISTRATION

SECTION 2. Title 2, Water Code, is amended by adding Subtitle E to read as follows:

SUBTITLE E. GROUNDWATER MANAGEMENT

CHAPTER 35. GROUNDWATER STUDIES

Sec. 35.001. PURPOSE. In order to provide for the conservation, preservation, protection, recharging, and prevention of waste of the groundwater, and of groundwater reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution, groundwater management areas may be created as provided by this chapter.

Sec. 35.002. DEFINITIONS. In this chapter:

(1) "District" means any district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, that has the authority to regulate the spacing of water wells, the production from water wells, or both.

(2) "Commission" means the Texas Natural Resource Conservation Commission.

(3) "Executive director" means the executive director of the commission.

(4) "Executive administrator" means the executive administrator of the Texas Water Development Board.

(5) "Groundwater" means water percolating below the surface of the earth.

(6) "Groundwater reservoir" means a specific subsurface water-bearing reservoir having ascertainable boundaries containing groundwater.

(7) "Subdivision of a groundwater reservoir" means a definable part of a groundwater reservoir in which the groundwater supply will not be appreciably affected by withdrawing water from any other part of the reservoir, as indicated by known geological and hydrological conditions and relationships and on foreseeable economic development at the time the subdivision is designated or altered.

(8) "Subsidence" means the lowering in elevation of the land surface caused by withdrawal of groundwater.

(9) "Board" means the board of directors of a district.

(10) "Director" means a member of a board.

(11) "Management area" means an area designated and delineated by the commission as an area suitable for management of groundwater resources.

(12) "Critical area" means an area designated and delineated by the commission as an area that is experiencing or is expected to experience critical groundwater problems.

(13) "Political subdivision" means a county, municipality, or other body politic or corporate of the state, including a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a state agency, or a nonprofit water supply corporation created under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes).

Sec. 35.003. SURFACE WATER LAWS NOT APPLICABLE. The laws and administrative rules relating to the use of surface water do not apply to groundwater.

Sec. 35.004. DESIGNATION OF MANAGEMENT AREAS. (a) On its own motion from time to time, or on receiving a petition, the commission may designate groundwater management areas. Each management area shall be designated with the objective of providing the most suitable area for the management of the groundwater resources. To the extent feasible, the management area shall coincide with the boundaries of a groundwater reservoir or a subdivision of a groundwater reservoir. The commission also may consider other factors, including the boundaries of political subdivisions.

(b) On the request of any person interested in the petition, or on the request of the commission, the executive director shall prepare available evidence relating to the configuration of a groundwater management area. Before making the designation, the commission shall consider the evidence prepared by the executive director and other evidence submitted at the hearing.

(c) *The commission may alter the boundaries of designated management areas as required by future conditions and as justified by factual data. An alteration of boundaries does not invalidate the previous creation of any district.*

(d) *The commission shall designate groundwater management areas using the procedures applicable to rulemaking under the Administrative Procedure Act, Subchapter B, Chapter 2001, Government Code.*

Sec. 35.005. PETITION TO DESIGNATE A GROUNDWATER MANAGEMENT AREA. (a) *A petition may be submitted to the commission for the sole purpose of requesting that the commission designate a management area for all or part of one or more counties.*

(b) *A petition filed pursuant to this section must be signed by:*

(1) *a majority of the landowners in the proposed management area; or*

(2) *if there are more than 50 landowners in the proposed management area, at least 50 of those landowners.*

(c) *A petition filed pursuant to this section must contain the following statement:*

"Petitioners request that the Texas Natural Resource Conservation Commission designate a groundwater management area to include all or part of _____ County (counties). The management area shall be designated with the objective of providing the most suitable area for the management of groundwater resources of the part of the state in which a district is to be located. Petitioners understand that this petition requests only the designation of a management area, but that all or part of the land in the management area designated may later be added to an existing groundwater conservation district or become a new groundwater conservation district, as provided by Chapter 36 of the Water Code."

(d) *A petition shall include a map that shows the location of the proposed management area and may include any other information desired by the petitioners concerning the proposed management area.*

(e) *The petitioners shall file the petition with the executive director for review in accordance with the rules of the commission. The petitioners shall supply any additional information requested by the commission or the executive director.*

(f) *The commission shall act on the petition within a reasonable amount of time.*

Sec. 35.006. NOTICE FOR DESIGNATION OF MANAGEMENT AREA. (a) *In addition to the notice required under the Administrative Procedure Act, Section 2001.023, Government Code, the petitioners shall have notice published in at least one newspaper with general circulation in the county or counties in which the proposed management area is to be located. Notice must be published not later than the 30th day before the date set for the commission to consider the designation of the management area.*

(b) *The notice must include:*

(1) *a statement of the general purpose and effect of designating the proposed management area;*

(2) *a map generally outlining the boundaries of the proposed management area or notice of the location at which a copy of the map may be examined or obtained; and*

(3) *the time and place at which the commission will consider the designation of the management area.*

(c) *If the commission designates a management area on its own motion, the commission shall give the same notice as required of the petitioner under this section.*

Sec. 35.007. IDENTIFYING, DESIGNATING, AND DELINEATING CRITICAL AREAS. (a) *The executive director and the executive administrator shall meet at least once a year to identify those areas of the state that are experiencing or that are expected to experience, based on information available to the commission and the Texas Water Development Board, within the immediately following 20-year period, critical groundwater problems, including shortages of surface or groundwater, land subsidence resulting from groundwater withdrawal, and contamination of groundwater supplies.*

(b) If the executive director concludes that an area of the state should be considered for designation as a critical area, the executive director shall prepare a report to the commission.

(c) The executive director shall begin preparation of a critical area report by requesting a study from the executive administrator. The study must include an appraisal of the hydrogeology of the area and matters within the Texas Water Development Board's planning expertise relevant to the area. The study must be completed and delivered to the executive director on or before the 90th day following the date of the request. If the study is not delivered within this 90-day period, the executive director may proceed with the preparation of the report.

(d) The report shall include:

(1) the recommended delineation of the boundaries of any proposed critical area in the form of a rule to be considered for adoption by the commission;

(2) the reasons and supporting information for or against designating the area as a critical area;

(3) a recommendation regarding whether a district should be created in the critical area or whether the critical area should be added to an existing district;

(4) any other information that the executive director considers helpful to the commission.

(e) The executive director must complete the report and file it with the commission on or before the 210th day following the date on which the executive administrator was requested to produce a study. The executive director shall make the report available for public inspection by providing a copy of the report to at least one library in each county in which the proposed critical area is located.

(f) To carry out this section, the executive director may make necessary studies, hold hearings, solicit and collect information, and use information already prepared by the executive director or the executive administrator for other purposes.

Sec. 35.008. **PROCEDURES FOR DESIGNATION OF CRITICAL AREAS.** (a) The commission shall designate critical areas using the procedures applicable to rulemaking under the Administrative Procedure Act, Subchapter B, Chapter 2001, Government Code, but if procedures required by this chapter are in conflict with that Act, this chapter controls.

(b) The designation of a critical area may not be appealed nor may it be challenged under the Administrative Procedure Act, Section 2001.038, Government Code.

Sec. 35.009. **NOTICE AND HEARING.** (a) In addition to the notice required for rulemaking under the Administrative Procedure Act, Section 2001.023, Government Code, the commission shall have notice published in at least one newspaper with general circulation in the county or counties in which the proposed critical area is to be located. Notice must be published not later than the 30th day before the date set for the commission to consider the designation of the critical area.

(b) The notice must include:

(1) a statement of the general purpose and effect of designating the proposed critical areas;

(2) a map generally outlining the boundaries of the proposed critical area or notice of the location at which a copy of the map may be examined or obtained;

(3) a description or the name of the locations at which the commission has provided copies of the executive director's report to be made available for public inspection; and

(4) the date, time, and place at which the commission will consider the designation of the critical areas.

Sec. 35.010. **CONSIDERATION OF CREATION OF DISTRICT OR ADDITION OF LAND IN CRITICAL AREA TO EXISTING DISTRICT.** (a) Following its designation of a critical area, the commission may call a hearing to consider:

(1) whether a district should be created over all or part of a critical area; or

(2) whether all or part of the land in the critical area should be added to an existing district.

(b) Evidentiary hearings shall be held at a location in one of the counties in which the critical area is located or in the nearest convenient location if adequate facilities are not available in the critical area.

(c) At the hearing, the commission shall hear testimony and receive evidence from all interested parties. The commission shall consider the executive director's report and supporting information and the testimony and evidence received at the hearing. If the commission considers further information necessary, it may request it from any source.

Sec. 35.011. NOTICE OF HEARING TO CREATE DISTRICT OR ADD CRITICAL AREA TO EXISTING DISTRICT. (a) The commission shall have notice of the hearing published in a newspaper with general circulation in the county or counties in which the area being considered for district creation or addition to an existing district is located. Notice must be published not later than the 30th day before the date of the hearing.

(b) The notice must include:

(1) a general statement of the nature and purpose of the district that may be created in the critical area;

(2) if applicable, a statement that all or part of the land in the critical area could be added to an existing district;

(3) a map generally outlining the boundaries of the critical area being considered for district creation or addition to an existing district or notice of the location at which a copy of the map may be examined or obtained;

(4) a statement that the full executive director's report concerning the critical area in question is available at the commission's main office in Austin, Texas, and that the report is available for inspection during regular business hours;

(5) the name and address of each library in the proposed critical area to which the commission has provided copies of the executive director's report; and

(6) the date, time, and place of the hearing.

(c) The commission also shall give written notice of the date, time, place, and purpose of the hearing to the governing body of each political subdivision located either partially or entirely in the critical area. The notice must be given before the 30th day preceding the date set for the hearing.

Sec. 35.012. COMMISSION ORDER. (a) At the conclusion of its hearing and considerations, the commission shall issue an order stating its findings and conclusions.

(b) If the commission finds that the land and other property in the critical area would benefit from the creation of one or more districts, that there is a public need for one or more districts, and that the creation of one or more districts would further the public welfare, the commission shall issue an order stating that the creation of one or more districts is needed.

(c) During the period between the date of issuance of a commission order under Subsection (b) and one year after the close of the next regular session of the legislature following the issuance of the order, the landowners in the critical area may:

(1) create one or more districts under Subchapter B, Chapter 36;

(2) have the area annexed to a district that adjoins the area; or

(3) create one or more districts through the legislative process.

(d) The commission shall identify the areas subject to the order of the commission issued under Subsection (b) that have not, in the period provided by Subsection (c), been incorporated into a district, and shall delineate proposed boundaries of a district to include those areas. If the commission proposes the creation of one or more districts, the commission shall begin the procedures for creation of a district provided in Subchapter B, Chapter 36.

(e) If the commission fails to find that the district would be a benefit to the land and other property within the critical area, that there is a public need for the district, or that creation of the district will further the public welfare, the commission shall issue an order stating that a district should not be created within the boundaries of the critical area.

(f) An order of the commission issued under this section may not be appealed.

Sec. 35.013. ADDING CRITICAL AREA TO EXISTING DISTRICT. (a) If land in a critical area is located adjacent to one or more existing districts, the commission, instead of issuing an order under Section 35.012, may issue an order recommending that the critical area be added to the existing district designated by the commission. In its order, the commission must find that the land and other property in the critical area and the land in the existing district will benefit from the addition of the area, that there is a public need to add the critical area to the existing district, and that the addition of the land to the existing district would further the public welfare.

(b) If the executive director recommends that the critical area be added to an existing district or if the commission considers it possible to add the critical area to an adjacent existing district, the commission shall give notice to the board of the existing district recommended by the executive director or considered by the commission to possibly serve the area and to any other existing districts adjacent to the critical area.

(c) The commission shall submit a copy of the order to the board of the district to which it is recommending the critical area be added. The board shall vote on the addition of the critical area to the district and shall advise the commission of the outcome.

(d) If the board votes to accept the addition of the critical area to the district, the board shall call an election within the critical area as delineated by the commission to determine if the critical area will be added to the district. In the order calling the election, the board shall designate election precincts and polling places for the elections.

(e) The board shall give notice of the election and the proposition to be voted on. The board shall publish notice of the election at least one time in one or more newspapers with general circulation within the boundaries of the critical area. The notice must be published before the 30th day preceding the date set for the election.

(f) The ballots for the election shall be printed to provide for voting for or against the proposition: "The inclusion of _____ (briefly describe critical area) in the _____ District." If the district has issued bonds, the proposition shall include the following language: "and assumption by the described area of a proportional share of the outstanding indebtedness of the district."

(g) Immediately after the election, the presiding judge of each polling place shall deliver the returns of the election to the board, and the board shall canvass the returns for the election within the critical area and declare the results. If a majority of the voters in the critical area voting on the proposition vote in favor of the proposition, the board shall declare that the critical area is added to the district. If a majority of the voters in the critical area voting on the proposition vote against adding the critical area to the district, the board shall declare that the critical area is not added to the district. The board shall file a copy of the election results with the commission.

(h) If the voters approve adding the critical area to the district, the board of the district to which the critical area is added shall provide reasonable representation on that board compatible with the district's existing scheme of representation.

(i) If the proposition is defeated, another election to add the critical area to an existing district may not be called before the first anniversary of the date on which the election on the proposition was held.

Sec. 35.014. COSTS OF ELECTIONS. (a) The costs of an election to create a district at which a district is authorized to be created shall be paid by the district.

(b) The costs of an election to add a critical area to an existing district at which the voters approve adding the critical area to the district shall be paid by the existing district.

(c) The costs of an election to create a district or add a critical area to an existing district at which the proposition fails shall be paid by the commission.

Sec. 35.015. STATE ASSISTANCE. (a) A political subdivision located in or that has within its boundaries an area or part of an area delineated as a critical area, and in which the qualified voters fail to approve the creation of a district or to join an existing district, shall not be eligible to receive any financial assistance from the state under Chapter 15, 16, or 17 for use within that portion of the critical area not covered by a district.

(b) A political subdivision located in an area delineated as a critical area, and in which qualified voters approve the creation of a district or annexation into an existing district, shall be given consideration to receive financial assistance from the state under Chapter 17 for funds to be used in addressing issues identified in the critical area report in the manner provided by Sections 17.124 and 17.125, except that the board is not required to make the finding set out in Section 17.125(a)(2).

Sec. 35.016. **EXEMPTION FROM CHAPTER.** (a) This chapter does not apply to any active groundwater conservation district or to land within an active groundwater conservation district.

(b) A district is considered active if it meets the requirements in Section 36.301(c).

Sec. 35.017. **STATE-OWNED LAND.** If state-owned land or a portion of state-owned land is located in a critical area, the state agency that has management and control over that land under the constitution or by statute may elect by written agreement with the commission and the district to include the state-owned land in the district. The agreement shall be entered into as provided by the Texas Intergovernmental Cooperation Act, Chapter 741, Government Code, and may include provisions for the payment by the state agency of reasonable fees to the district. If the state does not elect to enter into the agreement to include the state-owned land in the district, the state agency must establish a groundwater management plan that will conserve, protect, and prevent the waste of groundwater on that state-owned land.

CHAPTER 36. GROUNDWATER CONSERVATION DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 36.001. **DEFINITIONS.** In this chapter:

(1) "District" means any district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, that has the authority to regulate the spacing of water wells, the production from water wells, or both.

(2) "Commission" means the Texas Natural Resource Conservation Commission.

(3) "Executive director" means the executive director of the commission.

(4) "Executive administrator" means the executive administrator of the Texas Water Development Board.

(5) "Groundwater" means water percolating below the surface of the earth.

(6) "Groundwater reservoir" means a specific subsurface water-bearing reservoir having ascertainable boundaries containing groundwater.

(7) "Subdivision of a groundwater reservoir" means a definable part of a groundwater reservoir in which the groundwater supply will not be appreciably affected by withdrawing water from any other part of the reservoir, as indicated by known geological and hydrological conditions and relationships and on foreseeable economic development at the time the subdivision is designated or altered.

(8) "Waste" means any one or more of the following:

(A) withdrawal of groundwater from a groundwater reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;

(B) the flowing or producing of wells from a groundwater reservoir if the water produced is not used for a beneficial purpose;

(C) escape of groundwater from a groundwater reservoir to any other reservoir or geologic strata that does not contain groundwater;

(D) pollution or harmful alteration of groundwater in a groundwater reservoir by saltwater or by other deleterious matter admitted from another stratum or from the surface of the ground;

(E) wilfully or negligently causing, suffering, or allowing groundwater to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street,

highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the commission under Chapter 26;

(F) groundwater pumped for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge; or

(G) for water produced from an artesian well, "waste" has the meaning assigned by Section 11.205.

(9) "Use for a beneficial purpose" means use for:

(A) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;

(B) exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or

(C) any other purpose that is useful and beneficial to the user.

(10) "Subsidence" means the lowering in elevation of the land surface caused by withdrawal of groundwater.

(11) "Board" means the board of directors of a district.

(12) "Director" means a member of a board.

(13) "Management area" means an area designated and delineated by the commission under Chapter 35 as an area suitable for management of groundwater resources.

(14) "Critical area" means an area designated and delineated by the commission under Chapter 35 as an area experiencing or expected to experience critical groundwater problems.

(15) "Political subdivision" means a county, municipality, or other body politic or corporate of the state, including a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a state agency, or a nonprofit water supply corporation created under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes).

Sec. 36.002. OWNERSHIP OF GROUNDWATER. The ownership and rights of the owners of the land and their lessees and assigns in groundwater are hereby recognized, and nothing in this code shall be construed as depriving or divesting the owners or their lessees and assigns of the ownership or rights, subject to rules promulgated by a district.

[Sections 36.003–36.010 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT

Sec. 36.011. METHOD OF CREATING DISTRICT. (a) A groundwater conservation district may be created under and subject to the authority, conditions, and restrictions of Section 59, Article XVI, Texas Constitution.

(b) The commission has exclusive jurisdiction over the delineation of management areas and the creation of districts.

Sec. 36.012. COMPOSITION OF DISTRICT. (a) A district may include all or part of one or more counties, cities, districts, or other political subdivisions.

(b) A district may not include territory located in more than one county except on a majority vote of the voters residing within the territory in each county sought to be included in the district at an election called for that purpose.

(c) The boundaries of a district must be coterminous with or inside the boundaries of a management area or a critical area.

(d) A district may consist of separate bodies of land separated by land not included in the district.

(e) A majority of the voters in a segregated area must approve the creation of the district before that area may be included in the district.

Sec. 36.013. PETITION TO CREATE DISTRICT. (a) A petition requesting creation of a district must be filed with the executive director for review and submission to the commission.

(b) The petition filed pursuant to this section must be signed by:

(1) a majority of the landowners within the proposed district, as indicated by the county tax rolls; or

(2) if there are more than 50 landowners in the proposed district, at least 50 of those landowners.

(c) The petition must include:

(1) the name of the proposed district;

(2) the area and boundaries of the proposed district, including a map generally outlining the boundaries of the proposed district;

(3) the purpose or purposes of the district;

(4) a statement of the general nature of any projects proposed to be undertaken by the district, the necessity and feasibility of the work, and the estimated costs of those projects according to the persons filing the projects if the projects are to be funded by the sale of bonds or notes; and

(5) any additional terms or conditions that restrict the powers of the district from those provided in this chapter.

(d) If a part of the proposed district is not included within either a management area or a critical area, the petition to create a district may also contain a request to create a management area. A request to create a management area must comply with the requirements for a petition in Section 35.005, and may be acted on by the commission separately from the petition to create the district.

Sec. 36.014. NOTICE AND HEARING ON DISTRICT CREATION. (a) The notice of hearing on a petition must include a statement of the nature and purpose of the proposed district and the date, time, and place of hearing.

(b) The notice must be posted on the bulletin board used for posting legal notices in each county in which all or part of the proposed district is to be located.

(c) Notice of the hearing shall be published in a newspaper with general circulation in the county or counties in which the proposed district is to be located. Notice must be published not later than the 30th day before the date of the hearing.

(d) If the petition contains a request to create a management area in all or part of the proposed district, the notice must also be given in accordance with the requirements in Section 35.006 for the designation of management areas.

Sec. 36.015. FINDINGS. (a) If the commission finds that a district is feasible and practicable, that it would be a benefit to the land in the district, and that it would be a public benefit or utility, the commission shall issue an order containing these findings granting the petition.

(b) If the commission finds that a district is not feasible and practicable, that it would not be a benefit to the land in the district, that it would not be a public benefit or utility, or that it is not needed, the commission by order shall deny the petition.

(c) The commission may adjust the boundaries of the proposed district to exclude any land that would not be benefited by inclusion in the district and is not necessary to the district for proper regulation of the groundwater reservoir.

(d) If the commission grants the petition to create the district, it shall direct in its order creating the district that an election be called by the temporary directors to confirm the creation of the district and to elect permanent directors.

(e) The refusal to grant a petition to create a district does not invalidate or affect the designation of any management area requested in the same petition.

(f) The commission shall act on the petition within a reasonable amount of time.

Sec. 36.016. APPOINTMENT OF TEMPORARY DIRECTORS. (a) If the commission grants a petition to create a district, it shall appoint five temporary directors who shall serve

until the initial directors are elected and have qualified for office or until the voters fail to approve the creation of the district.

(b) If an appointee of the commission fails to qualify or if a vacancy occurs in the office of temporary director, the commission shall appoint an individual to fill the vacancy.

(c) As soon as all temporary directors have qualified, the directors shall meet, take the oath of office, and elect a chairman and vice chairman from among their membership. The chairman shall preside at all meetings of the board and, in the chairman's absence, the vice chairman shall preside.

Sec. 36.017. CONFIRMATION AND DIRECTORS' ELECTION. (a) Not later than the 60th day after the date all temporary directors have been appointed and have qualified, the temporary directors shall meet and order an election to be held within the boundaries of the proposed district to approve the creation of the district and to elect permanent directors.

(b) In the order calling the election, the temporary directors shall designate election precincts and polling places for the election. In designating the polling places, the temporary directors shall consider the needs of all voters for conveniently located polling places.

(c) The temporary directors shall publish notice of the election at least one time in at least one newspaper with general circulation within the boundaries of the proposed district. The notice must be published before the 30th day preceding the date of the election.

(d) The ballot for the election must be printed to provide for voting for or against the proposition: "The creation of the _____ Groundwater Conservation District." If the district levies a maintenance tax for payment of its expenses, the proposition shall include the following language: "and the levy of a maintenance tax at a rate not to exceed _____ cents for each \$100 of assessed valuation."

(e) Immediately after the election, the presiding judge of each polling place shall deliver the returns of the election to the temporary board, and the board shall canvass the returns and declare the result. The board shall file a copy of the election result with the commission.

(f) If a majority of the votes cast at the election favor the creation of the district, the temporary board shall declare the district created and shall enter the result in its minutes.

(g) If a majority of the votes cast at the election are against the creation of the district, the temporary board shall declare the district defeated and shall enter the result in its minutes.

(h) If the majority of the votes cast at the election are against the creation of the district, the district shall have no further authority, except that any debts incurred shall be paid and the organization of the district shall be maintained until all the debts are paid.

Sec. 36.018. INCLUSION OF MUNICIPALITY. (a) If part of the territory to be included in a district is located in a municipality, a separate voting district may not be established in the municipality for the purpose of determining whether the municipality as a separate area is to be included in the district.

(b) If for any other reason the territory in a municipality is established as a separate voting district, the failure by the voters in the municipal territory to confirm the creation of the district or the annexation of territory to a district does not prevent the territory in the municipality from being included in the district.

Sec. 36.019. CONFIRMATION ELECTION IN DISTRICT INCLUDING LAND IN MORE THAN ONE COUNTY. A district, the major portion of which is located in one county, may not be organized to include land in another county unless the election held in the other county to confirm and ratify the creation of the district is approved by a majority of the voters of the other county voting in an election called for that purpose.

Sec. 36.020. BOND AND TAX PROPOSAL. (a) At an election to create a district, the temporary directors may include a proposition for the issuance of bonds or notes, the levy of taxes to retire all or part of the bonds or notes, and the levy of a maintenance tax. The maintenance tax rate may not exceed 50 cents on each \$100 of assessed valuation.

(b) The board shall include in any bond and tax proposition the maximum amount of bonds or notes to be issued and their maximum maturity date.

Sec. 36.021. NOTIFICATION OF COUNTY CLERK. Within 30 days following the creation of a district or any amendment to the boundaries of a district, the board of directors shall file with the county clerk of each county in which all or part of the district is located a certified copy of the description of the boundaries of the district. Each county clerk shall record the certified copy of the boundaries in the property records of that county.

[Sections 36.022–36.050 reserved for expansion]

SUBCHAPTER C. ADMINISTRATION

Sec. 36.051. BOARD OF DIRECTORS. (a) The governing body of a district is the board of directors, which shall consist of not fewer than five and not more than 11 directors elected for four-year terms. The number of directors may be changed as determined by the board when territory is annexed by the district.

(b) A member of a governing body of another political subdivision is ineligible for appointment or election as a director. A director is disqualified and vacates the office of director if the director is appointed or elected as a member of the governing body of another political subdivision. This subsection does not apply to any district with a population less than 50,000.

(c) Vacancies in the office of director shall be filled by appointment of the board. If the vacant office is not scheduled for election for longer than two years at the time of the appointment, the board shall order an election for the unexpired term to be held as part of the next regularly scheduled director's election. The appointed director's term shall end on qualification of the director elected at that election.

Sec. 36.052. OTHER LAWS NOT APPLICABLE. Other laws governing the administration or operations of districts created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, shall not apply to any district governed by this chapter. This chapter prevails over any other law in conflict or inconsistent with this chapter, except any special law governing a specific district shall prevail over this chapter.

Sec. 36.053. QUORUM. A majority of the membership of the board constitutes a quorum for any meeting, and a concurrence of a majority of the entire membership of the board is sufficient for transacting any business of the district.

Sec. 36.054. OFFICERS. (a) After a district is created and the directors have qualified, the board shall meet, elect a president, vice president, secretary, and any other officers or assistant officers as the board may deem necessary and begin the discharge of its duties.

(b) After each directors' election, the board shall meet and elect officers.

(c) The president is the chief executive officer of the district, presides at all meetings of the board, and shall execute all documents on behalf of the district. The vice president shall act as president in case of the absence or disability of the president. The secretary is responsible for seeing that all records and books of the district are properly kept and shall attest the president's signature on all documents.

(d) The board may appoint another director, the general manager, or any employee as assistant or deputy secretary to assist the secretary, and any such person shall be entitled to certify as to the authenticity of any record of the district, including but not limited to all proceedings relating to bonds, contracts, or indebtedness of the district.

(e) After any election or appointment of a director, a district shall notify the executive director within 30 days after the date of the election or appointment of the name and mailing address of the director chosen and the date that director's term of office expires. The executive director shall provide forms to the district for such purpose.

Sec. 36.055. SWORN STATEMENT, BOND, AND OATH OF OFFICE. (a) As soon as practicable after a director is elected or appointed, that director shall make the sworn statement prescribed by the constitution for public office.

(b) As soon as practicable after a director has made the sworn statement, and before beginning to perform the duties of office, that director shall take the oath of office prescribed by the constitution for public officers.

(c) Before beginning to perform the duties of office, each director shall execute a bond for \$10,000 payable to the district and conditioned on the faithful performance of that director's duties. All bonds of the directors shall be approved by the board and paid for by the district.

(d) The sworn statement, bond, and oath shall be filed with the district and retained in its records. A duplicate original of the sworn statement and the oath shall also be filed with the secretary of state within 10 days after their execution and need not be filed before the new director begins to perform the duties of office.

Sec. 36.056. **GENERAL MANAGER.** (a) The board may employ or contract with a person to perform such services as general manager for the district as the board may from time to time specify. The board may delegate to the general manager full authority to manage and operate the affairs of the district subject only to orders of the board.

(b) The board may delegate to the general manager the authority to employ all persons necessary for the proper handling of the business and operation of the district and to determine the compensation to be paid all employees other than the general manager.

(c) Except in a district that is composed of the territory of more than one county, a director may be employed as general manager of the district. The compensation of a general manager who also serves as a director shall be established by the other directors.

Sec. 36.057. **MANAGEMENT OF DISTRICT.** (a) The board shall be responsible for the management of all the affairs of the district. The district shall employ or contract with all persons, firms, partnerships, corporations, or other entities, public or private, deemed necessary by the board for the conduct of the affairs of the district, including, but not limited to, engineers, attorneys, financial advisors, operators, bookkeepers, tax assessors and collectors, auditors, and administrative staff.

(b) The board shall set the compensation and terms for consultants.

(c) In selecting attorneys, engineers, auditors, financial advisors, or other professional consultants, the district shall follow the procedures provided in the Professional Services Procurement Act, Subchapter A, Chapter 2254, Government Code.

(d) The board shall require an officer, employee, or consultant who collects, pays, or handles any funds of the district to furnish good and sufficient bond, payable to the district, in an amount determined by the board to be sufficient to safeguard the district. The bond shall be conditioned on the faithful performance of that person's duties and on accounting for all funds and property of the district. Such bond shall be signed or endorsed by a surety company authorized to do business in the state.

(e) The board may pay the premium on surety bonds required of officials, employees, or consultants of the district out of any available funds of the district, including proceeds from the sale of bonds.

(f) The board may adopt bylaws to govern the affairs of the district to perform its purposes. The board may, by resolution, authorize its general manager or other employee to execute documents on behalf of the district.

(g) The board shall also have the right to purchase all materials, supplies, equipment, vehicles, and machinery needed by the district to perform its purposes.

Sec. 36.058. **CONFLICTS OF INTEREST.** A director of a district is subject to the provisions of Chapter 171, Local Government Code, relating to the regulation of conflicts of officers of local governments.

Sec. 36.059. **GENERAL ELECTIONS.** (a) All elections shall be generally conducted in accordance with the Election Code except as otherwise provided for by this chapter. Write-in candidacies for any district office shall be governed by Subchapter C, Chapter 146, Election Code.

(b) The directors of the district shall be elected according to the precinct method as defined by Chapter 12, page 1105, Special Laws, Acts of the 46th Legislature, Regular Session, 1939. To be qualified to be elected as a director, a person must be a registered voter in the precinct that the person represents. If any part of a municipal corporation is a part of one precinct, then no part of the municipal corporation shall be included in another precinct, except that a municipal corporation having a population of more than 200,000 may be divided between

two or more precincts. In a multicounty district, not more than two of the five precincts may include the same municipal corporation or part of the same municipal corporation.

Sec. 36.060. FEES OF OFFICE; REIMBURSEMENT. (a) A director is entitled to receive fees of office of not more than \$100 a day for each day the director actually spends performing the duties of a director. The fees of office may not exceed \$6,000 a year.

(b) Each director is also entitled to receive reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the district.

(c) In order to receive fees of office and to receive reimbursement for expenses, each director shall file with the district a verified statement showing the number of days actually spent in the service of the district and a general description of the duties performed for each day of service.

Sec. 36.061. POLICIES. (a) Subject to the law governing the district, the board shall adopt the following in writing:

(1) a code of ethics for district directors, officers, employees, and persons who are engaged in handling investments for the district;

(2) a policy relating to travel expenditures;

(3) a policy relating to district investments that ensures that:

(A) purchases and sales of investments are initiated by authorized individuals, conform to investment objectives and regulations, and are properly documented and approved; and

(B) periodic review is made of district investments to evaluate investment performance and security;

(4) policies and procedures for selection, monitoring, or review and evaluation of professional services;

(5) policies that ensure a better use of management information, including:

(A) budgets for use in planning and controlling cost;

(B) an audit or finance committee of the board; and

(C) uniform reporting requirements that use "Audits of State and Local Governments: Units" as a guide on audit working papers and that uses "Governmental Accounting and Financial Reporting Standards."

(b) The state auditor may audit the financial transactions of any district if the state auditor determines that the audit is necessary.

Sec. 36.062. OFFICES AND MEETING PLACES. (a) The board shall designate from time to time and maintain one or more regular offices for conducting the business of the district and maintaining the records of the district. Such offices may be located either inside or outside the district's boundaries as determined in the discretion of the board.

(b) The board shall designate one or more places inside or outside the district for conducting the meetings of the board.

Sec. 36.063. NOTICE OF MEETINGS. Notice of meetings of the board shall be given as set forth in the Open Meetings Act, Chapter 551, Government Code. Neither failure to provide notice of a regular meeting nor an insubstantial defect in notice of any meeting shall affect the validity of any action taken at the meeting.

Sec. 36.064. MEETINGS. (a) The board shall hold regular meetings at least quarterly. It may hold meetings at other times as required for the business of the district.

(b) Meetings shall be conducted and notice of meetings shall be posted in accordance with the Open Meetings Act, Chapter 551, Government Code. A meeting of a committee of the board, or a committee composed of representatives of more than one board, where less than a quorum of any one board is present is not subject to the provisions of the Open Meetings Act, Chapter 551, Government Code.

Sec. 36.065. RECORDS. (a) The board shall keep a complete account of all its meetings and proceedings and shall preserve its minutes, contracts, records, notices, accounts, receipts, and other records in a safe place.

(b) The records of each district are the property of the district and are subject to Chapter 552, Government Code.

(c) The preservation, storage, destruction, or other disposition of the records of each district is subject to the requirements of Chapter 201, Local Government Code, and rules adopted thereunder.

Sec. 36.066. SUITS. (a) A district may sue and be sued in the courts of this state in the name of the district by and through its board. All courts shall take judicial notice of the creation of the district and of its boundaries.

(b) Any court in the state rendering judgment for debt against a district may order the board to levy, assess, and collect taxes or assessments to pay the judgment.

(c) The president or the general manager of any district shall be the agent of the district on whom process, notice, or demand required or permitted by law to be served upon a district may be served.

(d) Except as provided in Subsection (e), no suit may be instituted in any court of this state contesting:

(1) the validity of the creation and boundaries of a district;

(2) any bonds or other obligations issued by a district; or

(3) the validity or the authorization of a contract with the United States by a district.

(e) The matters listed in Subsection (d) may be judicially inquired into at any time and determined in any suit brought by the State of Texas through the attorney general. The action shall be brought on good cause shown, except where otherwise provided by other provisions of this code or by the Texas Constitution. It is specifically provided, however, that no such proceeding shall affect the validity of or security for any bonds or other obligations theretofore issued by a district if such bonds or other obligations have been approved by the attorney general.

(f) A district shall not be required to give bond for appeal, injunction, or costs in any suit to which it is a party and shall not be required to deposit more than the amount of any award in any eminent domain proceeding.

(g) If the district prevails in any suit other than a suit in which it voluntarily intervenes, it may, in the same action, recover reasonable fees for attorneys, expert witnesses, and other costs incurred by the district before the court. The amount of the attorney's fees shall be fixed by the court.

Sec. 36.067. CONTRACTS. (a) A district shall contract, and be contracted with, in the name of the district.

(b) A district may purchase property from any other governmental entity by negotiated contract without the necessity of securing appraisals or advertising for bids.

Sec. 36.068. EMPLOYEE BENEFITS. (a) The board may provide for and administer retirement, disability, and death compensation funds for the employees of the district.

(b) The board may establish a public retirement system in accordance with the provisions of Chapter 810, Government Code. The board may also provide for a deferred compensation plan described by Section 457 of the Internal Revenue Code of 1986 (26 U.S.C. Section 457).

(c) The board may include hospitalization and medical benefits to its employees as part of the compensation paid to the officers and employees and may adopt any plan, rule, or regulation in connection with it and amend or change the plan, rule, or regulation as it may determine.

[Sections 36.069–36.100 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

Sec. 36.101. RULEMAKING POWER. (a) A district may make and enforce rules to provide for conserving, preserving, protecting, and recharging of the groundwater or of a groundwater reservoir or its subdivisions in order to control subsidence or prevent waste of groundwater and to carry out the powers and duties provided by this chapter.

(b) After notice and hearing, the board shall adopt and enforce rules to implement this chapter, including rules governing procedure before the board. Notice in this section shall include publication of the agenda of the hearing in one or more newspapers of general circulation in the county or counties in which the district is located.

(c) The board shall compile its rules and make them available for use and inspection at the district's principal office.

Sec. 36.102. ENFORCEMENT OF RULES. (a) A district may enforce this chapter and its rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.

(b) The board may set reasonable civil penalties for breach of any rule of the district that shall not exceed the jurisdiction of a justice court as provided by Section 27.031, Government Code.

(c) A penalty under this section is in addition to any other penalty provided by the law of this state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office or meeting place is located.

(d) If the district prevails in any suit to enforce its rules, it may, in the same action, recover reasonable fees for attorneys, expert witnesses, and other costs incurred by the district before the court. The amount of the attorney's fees shall be fixed by the court.

Sec. 36.103. IMPROVEMENTS AND FACILITIES. (a) A district may build, acquire, or obtain by any lawful means any property necessary for the district to carry out its purpose and the provisions of this chapter.

(b) A district may:

- (1) acquire land to erect dams or to drain lakes, draws, and depressions;
- (2) construct dams;
- (3) drain lakes, depressions, draws, and creeks;
- (4) install pumps and other equipment necessary to recharge a groundwater reservoir or its subdivision; and
- (5) provide necessary facilities for the purchase, sale, transportation, and distribution of water.

Sec. 36.104. PURCHASE, SALE, TRANSPORTATION, AND DISTRIBUTION OF WATER. A district may purchase, sell, transport, and distribute surface water or groundwater for any purpose.

Sec. 36.105. EMINENT DOMAIN. (a) A district may exercise the power of eminent domain to acquire by condemnation a fee simple or other interest in property if that property interest is necessary to the exercise of the authority conferred by this chapter.

(b) The power of eminent domain authorized in this section may not be used for the condemnation of land for the purpose of acquiring rights to groundwater, surface water or water rights.

(c) The district must exercise the power of eminent domain in the manner provided by Chapter 21, Property Code, but the district is not required to deposit a bond as provided by Section 21.021(a), Property Code.

(d) In a condemnation proceeding brought by a district, the district is not required to pay in advance or give bond or other security for costs in the trial court, to give bond for the issuance of a temporary restraining order or a temporary injunction, or to give bond for costs or supersedeas on an appeal or writ of error.

(e) In exercising the power of eminent domain, if the district requires relocating, raising, lowering, rerouting, changing the grade, or altering the construction of any railroad, highway, pipeline, or electric transmission or distribution, telegraph, or telephone lines, conduits, poles, or facilities, the district must bear the actual cost of relocating, raising, lowering, rerouting, changing the grade, or altering the construction to provide comparable replacement without enhancement of facilities after deducting the net salvage value derived from the old facility.

Sec. 36.106. SURVEYS. A district may make surveys of the groundwater reservoir or subdivision and surveys of the facilities for development, production, transportation, distribution, and use of the water, in order to determine the quantity of water available for production and use and to determine the improvements, development, and recharging needed by a reservoir or its subdivision.

Sec. 36.107. RESEARCH AND PLANNING. (a) A district may carry out any research projects deemed necessary by the board.

(b) Following notice and hearing, the district shall develop a comprehensive management plan for the most efficient use of the groundwater, for controlling and preventing waste of groundwater, and for controlling and preventing subsidence. The plan may be revised annually but must be reviewed by the board at least once every five years.

(c) The district shall specify in the management plan, in as much detail as possible, the acts, procedures, performance, and avoidance that are or may be necessary to effect the plan, including specifications and proposed rules. The district shall adopt rules necessary to implement the management plan. The district shall file a copy of the management plan and the rules with the commission.

Sec. 36.108. JOINT PLANNING IN MANAGEMENT AREA. (a) If two or more districts are located within the boundaries of the same management area, each district shall prepare a comprehensive management plan as required by Section 36.107 covering that district's respective territory. On completion of the plan, each district shall forward a copy of the new revised management plan to the other districts in the management area.

(b) The board of directors of each district in the management area may, by resolution, call a joint meeting with the boards of directors of the other districts in the management area to review the management plans and accomplishments for the management area. The boards shall meet to consider the plans individually and shall compare them to other management plans then in force in the management area. In reviewing the management plans, the boards shall consider:

(1) the goals of each management plan and its impact on planning throughout the management area;

(2) the effectiveness of the measures established by each management plan for conserving and protecting groundwater and preventing waste, and the effectiveness of these measures in the management area generally; and

(3) any other matters that the boards consider relevant to the protection and conservation of groundwater and the prevention of waste in the management area.

(c) A joint meeting of the boards of directors must be held in accordance with the Open Meetings Act, Chapter 551, Government Code. Notice of the meeting shall be given in accordance with the requirements for notice of district board of directors meetings under that Act. In addition, notice of the meeting shall be published not later than the 30th day before the date of the scheduled meeting in a newspaper with general circulation in each county in the management area.

(d) A district in the management area may file a petition with the commission requesting an inquiry if the petitioner district believes that:

(1) another district in the management area has failed to adopt rules;

(2) the groundwater in the management area is not adequately protected by the rules adopted by another district; or

(3) the groundwater in the management area is not adequately protected due to the failure of another district to enforce substantial compliance with its rules.

(e) Not later than the 90th day after the date the petition is filed, the commission shall review the petition and either:

(1) dismiss it if it finds that the evidence is not adequate to show that any of the conditions alleged in the petition exist; or

(2) select a review panel as provided in Subsection (f).

(f) The commission may appoint a review panel consisting of a chairman and four other members. A director or general manager of a district located outside the management area

that is the subject of the petition may be appointed to the review panel. The commission may not appoint more than two members of the review panel from any one district. The commission also shall appoint a disinterested person to serve as a nonvoting recording secretary for the review panel. The recording secretary may be an employee of the commission. The recording secretary shall record and document the proceedings of the panel.

(g) Not later than the 120th day after appointment, the review panel shall review the petition and any evidence relevant to the petition and, in a public meeting, prepare a report to the commission. The commission may direct the review panel to conduct public hearings at a location in the management area to take evidence on the petition. The review panel may attempt to negotiate a settlement or resolve the dispute by any lawful means.

(h) In its report, the review panel shall include:

- (1) a summary of all evidence taken in any hearing on the petition;
- (2) a list of findings and recommended actions appropriate for the commission to take and the reasons it finds those actions appropriate; and
- (3) any other information the panel considers appropriate.

Sec. 36.109. **COLLECTION OF INFORMATION.** A district may collect any information the board deems necessary, including information regarding the use of groundwater, water conservation, and the practicability of recharging a groundwater reservoir.

Sec. 36.110. **PUBLICATION OF PLANS AND INFORMATION.** A district may publish its plans and the information it develops, bring them to the attention of the users of groundwater in the district, and encourage the users to adopt and use them.

Sec. 36.111. **RECORDS AND REPORTS.** The district shall require that records be kept and reports be made of the drilling, equipping, and completing of water wells and of the production and use of groundwater.

Sec. 36.112. **DRILLERS' LOGS.** A district shall require that accurate drillers' logs be kept of water wells and that copies of drillers' logs and electric logs be filed with the district.

Sec. 36.113. **PERMITS FOR WELLS.** A district shall require permits for the drilling, equipping, or completing of wells, or for substantially altering the size of wells or well pumps. Permits may be issued subject to the rules promulgated by the district and subject to terms and provisions with reference to the drilling, equipping, completion, or alteration of wells or pumps that may be necessary to conserve the groundwater, prevent waste, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, lessen interference between wells, or control and prevent subsidence.

Sec. 36.114. **PERMIT: APPLICATION AND HEARING.** The district shall promptly consider and pass on each application for a permit. If, within 20 days after the date it is submitted, an application has not been passed on or set for a hearing on a specific date, the applicant may petition the district court of the county where the land is located for a writ of mandamus to compel the district to act on the application or set a date for a hearing on the application. A hearing shall be held within 35 days after the setting of the date and the district shall act on the application within 35 days after the date of the hearing.

Sec. 36.115. **DRILLING OR ALTERING WELL WITHOUT PERMIT.** (a) No person, firm, or corporation may drill a well without first obtaining a permit from the district.

(b) No person, firm, or corporation may alter the size of a well or well pump such that it would bring that well under the jurisdiction of the district without first obtaining a permit from the district.

(c) No person, firm, or corporation may operate a well without first obtaining a permit from the district.

(d) A violation occurs on the first day the drilling, alteration, or operation begins and continues each day thereafter until the appropriate permits are approved.

Sec. 36.116. **REGULATION OF SPACING AND PRODUCTION.** In order to minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, to control subsidence, or to prevent waste, a district may provide for the spacing of water wells and may regulate the production of wells.

Sec. 36.117. EXCEPTIONS; LIMITATIONS. (a) A district may not require a permit for:

(1) drilling or producing from a well either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;

(2) the drilling or alteration of the size of a well or to restrict the production of a well if the water produced or to be produced from the well is used or to be used to supply the domestic needs of 10 or fewer households and a person who is a member of each household is either the owner of the well, a person related to the owner or a member of the owner's household within the second degree by consanguinity, or an employee of the owner;

(3) the drilling or alteration of the size of a well or to restrict the production from the well if the water produced or to be produced from the well is used or to be used to provide water for feeding livestock and poultry connected with farming, ranching, or dairy enterprises;

(4) water wells to supply water for hydrocarbon production activities, regardless of whether those wells are producing, that are associated with any well permitted by the Railroad Commission of Texas drilled before September 1, 1985; or

(5) jet wells used for domestic needs.

(b) The board shall adopt rules determining the applicability of Subsection (a)(3) to facilities used primarily for feeding livestock.

(c) The district shall not deny the owner of a tract of land, or his lessee, who has no well equipped to produce more than 25,000 gallons a day on the tract, either a permit to drill a well on his land or the privilege to produce groundwater from his land, subject to the rules of the district.

(d) A district may not restrict the production of any well equipped to produce 25,000 gallons or less a day.

(e) Nothing in this chapter applies to wells drilled for oil, gas, sulphur, uranium, or brine, or for core tests, or for injection of gas, saltwater, or other fluid, or for any other purpose, under permits issued by the Railroad Commission of Texas. A district may not require a permit to drill a well to supply water for drilling any of these wells permitted by the Railroad Commission of Texas. Any well that ceases to be used for these purposes and is then used as an ordinary water well is subject to the rules of the district.

(f) Water wells exempted under this section shall be equipped and maintained so as to conform to the district's rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.

(g) A district shall require water wells exempted under this section to be registered with the district. All exempt water wells shall be equipped and maintained so as to conform to the district's rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from a groundwater reservoir to any reservoir not containing groundwater and to prevent the pollution or harmful alteration of the character of the water in any groundwater reservoir.

Sec. 36.118. OPEN OR UNCOVERED WELLS. (a) A district may require the owner or lessee of land on which an open or uncovered well is located to keep the well permanently closed or capped with a covering capable of sustaining weight of at least 400 pounds, except when the well is in actual use.

(b) As used in this section, "open or uncovered well" means an artificial excavation dug or drilled for the purpose of exploring for or producing water from the groundwater reservoir and is not capped or covered as required by this chapter.

(c) If the owner or lessee fails or refuses to close or cap the well in compliance with this chapter in accordance with district rules, any person, firm, or corporation employed by the district may go on the land and close or cap the well safely and securely.

(d) Reasonable expenses incurred by the district in closing or capping a well constitute a lien on the land on which the well is located.

(e) *The lien arises and attaches upon recordation in the deed records of the county where the well is located an affidavit, executed by any person conversant with the facts, stating the following:*

- (1) *the existence of the well;*
- (2) *the legal description of the property on which the well is located;*
- (3) *the approximate location of the well on the property;*
- (4) *the failure or refusal of the owner or lessee, after notification, to close the well within 10 days after the notification;*
- (5) *the closing of the well by the district, or by an authorized agent, representative, or employee of the district; and*
- (6) *the expense incurred by the district in closing the well.*

(f) *Nothing in this section affects the enforcement of Subchapter A, Chapter 756, Health and Safety Code.*

Sec. 36.119. ILLEGAL DRILLING AND OPERATION OF WELL; CITIZEN SUIT.

(a) *Drilling a well without a required permit or operating a well at a higher rate of production than the rate approved for the well is declared to be illegal, wasteful per se, and a nuisance.*

(b) *A person who has an estate in land adjacent to the land on which the well is located, or a part that lies within one-half mile of the well, may sue in a court of competent jurisdiction to restrain or enjoin the illegal drilling or operation, or both. The suit may be brought with or without the joinder of the district.*

(c) *The aggrieved party may also sue for damages for injuries suffered by reason of the illegal operation and for other relief to which they may be entitled. In a suit for damages, the existence or operation of a well in violation of the rules of the district is prima facie evidence of illegal drainage.*

(d) *The suit may be brought in the county where the illegal well is located or in the county where all or part of the affected land is located.*

(e) *The remedies provided by this section are cumulative of other remedies available to the individual or the district.*

(f) *A suit brought under this section shall be advanced for trial and determined as expeditiously as possible. The court shall not grant a postponement or continuance, including a first motion, except for reasons considered imperative by the court.*

Sec. 36.120. INFORMATION. *On request of the executive director or the executive administrator, the district shall make available information that it acquires concerning the groundwater resources within its jurisdiction. The district shall also provide information to the commission and Texas Water Development Board concerning its plans and activities in conserving and protecting groundwater resources. On request of a district, the executive director and the executive administrator shall provide information they acquire concerning the groundwater resources within the district's jurisdiction.*

Sec. 36.121. LIMITATION ON RULEMAKING POWER OF DISTRICTS OVER WELLS IN CERTAIN COUNTIES. *Except as provided by Section 36.117, a district that is created under this chapter on or after September 1, 1991, shall exempt from regulation under this chapter a well and any water produced or to be produced by a well that is located in a county that has a population of 14,000 or less if the water is to be used solely to supply a municipality that has a population of 115,000 or less and the rights to the water produced from the well are owned by a political subdivision that is not a municipality, or by a municipality that has a population of 93,000 or less, and that purchased, owned, or held rights to the water before the date on which the district was created, regardless of the date the well is drilled or the water is produced. The district may not prohibit the political subdivision or municipality from transporting produced water inside or outside the district's boundaries.*

[Sections 36.122–36.150 reserved for expansion]

SUBCHAPTER E. DISTRICT FINANCES

Sec. 36.151. EXPENDITURES. (a) A district's money may be disbursed only by check, draft, order, or other instrument.

(b) Disbursements shall be signed by at least two directors, except the board may by resolution allow certain employees of the district, or a combination of employees and directors, to sign disbursements on behalf of the board.

(c) The board may by resolution allow disbursements to be transferred by federal reserve wire system to accounts in the name of the district.

Sec. 36.152. FISCAL YEAR. (a) The district shall be operated on the basis of a fiscal year established by the board.

(b) The fiscal year may not be changed during a period in which revenue bonds of the district are outstanding or more than once in a 24-month period.

Sec. 36.153. ANNUAL AUDIT. (a) Annually, the board shall have an audit made of the financial condition of the district.

(b) The annual audit and other district records must be open to inspection during regular business hours at the principal office of the district.

Sec. 36.154. ANNUAL BUDGET. (a) The board shall prepare and approve an annual budget.

(b) The budget shall contain a complete financial statement, including a statement of:

- (1) the outstanding obligations of the district;*
- (2) the amount of cash on hand to the credit of each fund of the district;*
- (3) the amount of money received by the district from all sources during the previous year;*
- (4) the amount of money available to the district from all sources during the ensuing year;*
- (5) the amount of the balances expected at the end of the year in which the budget is being prepared;*
- (6) the estimated amount of revenues and balances available to cover the proposal budget; and*
- (7) the estimated tax rate or fee revenues that will be required.*

(c) The annual budget may be amended on the board's approval.

Sec. 36.155. DEPOSITORY. (a) The board shall name one or more banks to serve as depository for the district funds.

(b) District funds, other than those transmitted to a bank for payment of bonds issued by the district, shall be deposited as received with the depository bank and shall remain on deposit. This subsection does not limit the power of the board to place a portion of the district's funds on time deposit or to purchase certificates of deposit.

(c) To the extent that funds in the depository are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds by the Public Funds Collateral Act, Chapter 2257, Government Code.

Sec. 36.156. INVESTMENTS. (a) Funds of the district may be invested and reinvested in accordance with the provisions of the Public Funds Investment Act, Chapter 2256, Government Code.

(b) The board, by resolution, may provide that an authorized representative of the district may invest and reinvest the funds of the district and provide for money to be withdrawn from the appropriate accounts of the district for investments on such terms as the board considers advisable.

Sec. 36.157. REPAYMENT OF ORGANIZATIONAL EXPENSES. (a) A district may pay all costs and expenses necessarily incurred in the creation and organization of a district, including legal fees and other incidental expenses, and may reimburse any person for money advanced for these purposes.

(b) *Payments may be made from money obtained from the sale of bonds first issued by the district or out of maintenance taxes or other revenues of the district.*

Sec. 36.158. GRANTS. A district may make or accept grants, gratuities, advances, or loans in any form to or from any source approved by the board, including any governmental entity, and may enter into contracts, agreements, and covenants in connection with grants, gratuities, advances, or loans that the board considers appropriate.

[Sections 36.159–36.170 reserved for expansion]

SUBCHAPTER F. BONDS AND NOTES

Sec. 36.171. ISSUANCE OF BONDS AND NOTES. (a) The board may issue and sell bonds and notes in the name of the district for any lawful purpose of the district. A district may not issue bonds unless the commission determines that the project to be financed by the bonds is feasible and issues an order approving the issuance of the bonds. This section does not apply to refunding bonds.

(b) A district may submit to the commission a written application for investigation of feasibility. An engineer's report describing the project, including the data, profiles, maps, plans, and specifications prepared in connection with the report, must be submitted with the application.

(c) The executive director shall examine the application and the report and shall inspect the project area. The district shall, on request, supply the executive director with additional data and information necessary for an investigation of the application, the engineer's report, and the project.

(d) The executive director shall prepare a written report on the project and include suggestions, if any, for changes or improvements in the project. The executive director shall retain a copy of the report and send a copy of the report to both the commission and the district.

(e) The commission shall consider the application, the engineer's report, the executive director's report, and any other evidence allowed by commission rule to be considered in determining the feasibility of the project.

(f) The commission shall determine whether the project to be financed by the bonds is feasible and issue an order either approving or disapproving, as appropriate, the issuance of the bonds. The commission shall retain a copy of the order and send a copy of the order to the district.

(g) Notwithstanding any provision of this code to the contrary, the commission may approve the issuance of bonds of a district without the submission of plans and specifications of the improvements to be financed with the bonds. The commission may condition the approval on any terms or conditions considered appropriate by the commission.

Sec. 36.172. MANNER OF REPAYMENT OF BONDS AND NOTES. The board may provide for the payment of principal of and interest on the bonds and notes in any one of the following manners:

(1) from the levy and collection of ad valorem taxes on taxable property within the district;

(2) from fees;

(3) by pledging all or any part of the designated revenues from the ownership or operation of the district's works, improvements, and facilities and from the sale, transportation, and distribution of water; or

(4) from any combination of these sources.

Sec. 36.173. ADDITIONAL SECURITY FOR BONDS AND NOTES. (a) The bonds and notes may be additionally secured by a deed of trust or mortgage lien on part or all of the physical properties of the district and rights appurtenant to those properties, vesting in the trustee power to sell the properties for payment of the indebtedness, power to operate the properties, and all other powers necessary for the further security of the bonds and notes.

(b) *The trust indenture, regardless of the existence of the deed trust or mortgage lien on the properties, may contain provisions established by the board for the security of the bonds and notes and the preservation of the trust estate, may make provisions for amendment or modification, and may make provisions for investment of funds of the district.*

(c) *A purchaser under a sale under the deed trust or mortgage lien shall be absolute owner of the properties and rights purchased and may maintain and operate them.*

Sec. 36.174. FORM OF BONDS OR NOTES. (a) *A district may issue its bonds or notes in various series or issues.*

(b) *Bonds or notes may mature serially or otherwise not more than 50 years from their date and shall bear interest at any rate permitted by the constitution and laws of this state.*

(c) *A district's bonds, notes, and interest coupons, if any, are investment securities under the terms of Chapter 8, Business & Commerce Code, and may be issued registrable as to principal or as to both principal and interest and may be made redeemable before maturity, at the option of the district, or may contain a mandatory redemption provision.*

(d) *A district's bonds and notes may be issued in the form, denominations, and manner and under the terms, conditions, and details, and shall be signed and executed as provided by the board in the resolution or order authorizing their issuance.*

Sec. 36.175. PROVISIONS OF BONDS AND NOTES. (a) *In the orders or resolutions authorizing the issuance of bonds or notes, including refunding bonds, the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds. The board may make additional covenants with respect to bonds or notes, pledged revenues, and the operation and maintenance of those works, improvements, and facilities, of which the revenue is pledged.*

(b) *The orders or resolutions of the board authorizing the issuance of bonds or notes may also prohibit the further issuance of bonds, notes, or other obligations payable from the pledged revenue or may reserve the right to issue additional bonds or notes to be secured by a pledge of and payable from the revenue on a parity with or subordinate to the lien and pledge in support of the bonds or notes being issued.*

(c) *The orders or resolutions of the board issuing bonds or notes may contain other provisions and covenants as the board may determine.*

(d) *The board may adopt and have executed any other proceeding or instruments necessary and convenient in the issuance of bonds or notes.*

Sec. 36.176. REFUNDING BONDS. (a) *A district may issue bonds to refund all or any part of its outstanding bonds or notes, including matured but unpaid interest coupons.*

(b) *Refunding bonds shall mature serially or otherwise not more than 50 years from their date and shall bear interest at any rate or rates permitted by the constitution and laws of the state.*

(c) *Refunding bonds may be payable from the same source as the bonds or notes being refunded or from other additional sources.*

(d) *The refunding bonds must be approved by the attorney general as in the case of other bonds or notes and shall be registered by the comptroller on the surrender and cancellation of the bonds or notes being refunded.*

(e) *The orders or resolutions authorizing the issuance of the refunding bonds may provide that they be sold and the proceeds deposited in the place or places at which the bonds or notes being refunded are payable, in which case the refunding bonds may be issued before the cancellation of the bonds or notes being refunded. If refunding bonds are issued before cancellation of the other bonds or notes, an amount sufficient to pay the principal of and interest on the bonds or notes being refunded to their maturity dates, or to their option dates if the bonds or notes have been duly called for payment prior to maturity according to their terms, shall be deposited in the place or places at which the bonds or notes being refunded are payable. The comptroller shall register the refunding bonds without the surrender and cancellation of bonds or notes being refunded.*

(f) A refunding may be accomplished in one or in several installment deliveries. Refunding bonds and their interest coupons are investment securities under Chapter 8, Business & Commerce Code.

(g) In lieu of the method set forth in Subsections (a)–(f), a district may refund bonds, notes, or other obligations as provided by the general laws of the state.

Sec. 36.177. BONDS AND NOTES AS INVESTMENTS. District bonds and notes are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) savings and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; and

(9) sinking funds of cities, counties, school districts, and other political subdivisions of the state and other public funds of the state and its agencies, including the permanent school fund.

Sec. 36.178. BONDS AND NOTES AS SECURITY FOR DEPOSITS. District bonds and notes are eligible to secure deposits of public funds of the state and cities, counties, school districts, and other political subdivisions of the state. The bonds or notes are lawful and sufficient security for deposits to the extent of their value when accompanied by all unmatured coupons.

Sec. 36.179. TAX STATUS OF BONDS AND NOTES. Since a district governed by this chapter is a public entity performing an essential public function, bonds and notes issued by the district, any transaction relating to the bonds and notes, and profits made in the sale of the bonds and notes, are free from taxation by the state or by any city, county, special district, or other political subdivision of the state.

Sec. 36.180. ELECTION. (a) Bonds or notes secured in whole or in part by taxes may not be issued by the district until authorized by a majority vote of the qualified voters of the district at an election called for that purpose.

(b) The board may order an election, and the order calling the election shall state the nature and the date of the election, the hours during which the polls will be open, the location of the polling places, the amount of bonds or notes to be authorized, and the maximum maturity of the bonds or notes.

(c) At an election to authorize bonds or notes payable wholly from ad valorem taxes, the ballots must be printed to provide for voting for or against the proposition: "The issuance of (bonds or notes) and the levy of taxes for payment of the (bonds or notes)." At any election to authorize bonds or notes payable from both ad valorem taxes and revenues, the ballots must be printed to provide for voting for or against: "The issuance of (bonds or notes) and the pledge of net revenues and the levy of ad valorem taxes adequate to provide for the payment of the (bonds or notes)."

(d) The board shall canvass the returns and declare the results of the election. If a majority of the votes cast at the election favor the issuance of the bonds or notes, the bonds or notes may be issued by the board, but if a majority of the votes cast at the election do not favor issuance of the bonds or notes, the bonds or notes may not be issued.

Sec. 36.181. APPROVAL BY ATTORNEY GENERAL; REGISTRATION BY COMPTROLLER. (a) Bonds and notes issued by a district must be submitted to the attorney general for examination.

(b) If the attorney general finds that the bonds or notes have been authorized in accordance with law, the attorney general shall approve them, and they shall be registered by the comptroller.

(c) After the approval and registration of bonds or notes, the bonds or notes are incontestable in any court or other forum, for any reason, and are valid and binding obligations in accordance with their terms for all purposes.

[Sections 36.182–36.200 reserved for expansion]

SUBCHAPTER G. DISTRICT REVENUES

Sec. 36.201. LEVY OF TAXES. (a) The board may annually levy taxes to pay the bonds issued by the district that are payable in whole or in part by taxes.

(b) The board may annually levy taxes to pay the maintenance and operating expenses of the district at a rate not to exceed 50 cents on each \$100 of assessed valuation.

(c) The board may not levy a tax to pay the maintenance and operating expenses of the district under this section until the tax is approved by a majority of the electors voting at an election in the district held for that purpose. The district may:

(1) hold an election for approval of the tax at the same time and in conjunction with an election to authorize bonds, following the procedures applicable to a bond election; or

(2) hold a separate election for approval of the tax in accordance with Subsection (d).

(d) An order calling a separate election for approval of a tax under this section must be issued at least 15 days before the date of the election, and the election notice must be published at least twice in a newspaper of general circulation in the district. The first publication of the notice must be at least 14 days before the date of the election.

Sec. 36.202. BOARD AUTHORITY. (a) The board may levy taxes for the entire year in which the district is created.

(b) If territory is added to or annexed by the district, the board may levy taxes in the new territory for the entire year in which the territory is added or annexed.

(c) The board shall levy taxes on all property in the district subject to district taxation.

Sec. 36.203. TAX RATE. In setting the tax rate, the board shall take into consideration the income of the district from sources other than taxation. On determination of the amount of tax required to be levied, the board shall make the levy and certify it to the tax assessor-collector.

Sec. 36.204. TAX APPRAISAL, ASSESSMENT AND COLLECTION. (a) The Tax Code governs the appraisal, assessment, and collection of district taxes.

(b) The board may provide for the appointment of a tax assessor-collector for the district or may contract for the assessment and collection of taxes as provided by the Tax Code.

Sec. 36.205. AUTHORITY TO SET FEES. (a) A district may set fees for administrative acts of the district, such as filing applications. Fees set by a district may not unreasonably exceed the cost to the district of performing the administrative function for which the fee is charged.

(b) A district shall set and collect fees for all services provided outside the boundaries of the district.

(c) Fees based on the amount of water to be withdrawn from a well shall not exceed:

(1) one dollar per acre foot for water used for the purpose of irrigating agricultural crops; or

(2) 17 cents per thousand gallons for water used for any other purpose.

(d) A district affected by Subsection (c)(2) that also may assess a water use fee against a specific municipality shall assess an amount not to exceed 60 percent of the total funding of the district received from water use fees assessed against that municipality and other nonexempt users in the district. This subsection shall take precedence over all prior enactments.

(e) Subsection (c) does not apply to the following districts:

(1) the Edwards Aquifer Authority;

(2) the Fort Bend Subsidence District; or

(3) the Harris-Galveston Coastal Subsidence District.

[Sections 36.206–36.250 reserved for expansion]

SUBCHAPTER H. JUDICIAL REVIEW

Sec. 36.251. SUIT AGAINST DISTRICT. A person, firm, corporation, or association of persons affected by and dissatisfied with any provision or with any rule or order made by a district is entitled to file a suit against the district or its directors to challenge the validity of the law, rule, or order. The suit shall be filed in a court of competent jurisdiction in any county in which the district or any part of the district is located. The suit may only be filed after all administrative appeals to the district are final.

Sec. 36.252. SUIT TO BE EXPEDITED. A suit brought under this subchapter shall be advanced for trial and determined as expeditiously as possible. No postponement or continuance shall be granted except for reasons considered imperative by the court.

Sec. 36.253. TRIAL OF SUIT. The burden of proof is on the petitioner, and the challenged law, rule, order, or act shall be deemed prima facie valid. The review on appeal is governed by the substantial evidence rule as defined by Section 2001.174, Government Code.

Sec. 36.254. SUBCHAPTER CUMULATIVE. The provisions of this subchapter do not affect other legal or equitable remedies that may be available.

[Sections 36.255–36.300 reserved for expansion]

SUBCHAPTER I. DISSOLUTION OF DISTRICT

Sec. 36.301. DISSOLUTION. (a) After notice and hearing, the commission may dissolve a district that:

- (1) has been inactive for a period of three consecutive years; and
- (2) has no outstanding bonded indebtedness.

(b) A district composed of territory entirely within one county may be dissolved even if it has outstanding indebtedness that matures after the year in which the district is dissolved, whereupon the commissioners court shall levy and collect taxes on all taxable property in the district in an amount sufficient to pay the principal of and interest on the indebtedness when due. The taxes shall be levied and collected in the same manner as county taxes.

(c) A district is considered active if:

- (1) the district has a board as required by Subchapter D;
- (2) the board holds regularly scheduled meetings and has on file minutes of its meetings;
- (3) the district has developed and filed with the commission a management plan for the district;
- (4) the district has copies of drillers' logs on file;
- (5) the district has on file well permits issued by the district; and
- (6) the district has on file annual district audits.

Sec. 36.302. NOTICE OF HEARING. (a) The commission shall give notice of the dissolution hearing which briefly describes the reasons for the proceeding.

(b) The notice shall be published once each week for two consecutive weeks before the day of hearing in some newspaper having general circulation in the county or counties in which the district is located. The first publication shall be 30 days before the day of the hearing.

(c) The commission shall give notice of the hearing by first class mail addressed to the directors of the district according to the last record on file with the executive director.

Sec. 36.303. INVESTIGATION. The executive director shall investigate the facts and circumstances of the district to be dissolved and the result of the investigation shall be included in a written report.

Sec. 36.304. ORDER OF DISSOLUTION. The commission may enter an order dissolving the district at the conclusion of the hearing if it finds that the district has performed none of the functions for which it was created for a period of three consecutive years before the day of the proceeding and that the district has no outstanding bonded indebtedness.

Sec. 36.305. CERTIFIED COPY OF ORDER. The commission shall file a certified copy of the order of dissolution of the district in the deed records of the county or counties in which the district is located. If the district was created by a special Act of the legislature, the commission shall file a certified copy of the order of dissolution with the secretary of state.

Sec. 36.306. APPEALS. (a) Appeals from a commission order dissolving a district shall be filed and heard in the district court of any of the counties in which the land is located.

(b) The trial on appeal shall be de novo and the substantial evidence rule shall not apply.

Sec. 36.307. ASSETS ESCHEAT TO STATE. Upon the dissolution of a district by the commission, all assets of the district shall escheat to the State of Texas. The assets shall be administered by the state treasurer and shall be disposed of in the manner provided by Chapter 72, Property Code.

[Sections 36.308–36.320 reserved for expansion]

SUBCHAPTER J. ADDING TERRITORY TO DISTRICT

Sec. 36.321. ADDING LAND BY PETITION OF LANDOWNER. The owner of land contiguous to a district may file with the board a notarized petition requesting that the owner's land be included in the district. The petition must describe the land by legal description or by metes and bounds or by lot and block number if there is a recorded plat of the area to be included in the district.

Sec. 36.322. ASSUMPTION OF BONDS. If the district has bonds, notes, or other obligations outstanding or bonds payable in whole or in part from taxation that have been voted but are unissued, the petitioner shall assume its share of the outstanding bonds, notes, or other obligations and any voted but unissued tax bonds of the district, and the property shall be assessed an ad valorem tax at the same rate as that set for the existing district to pay for outstanding bonds and for the maintenance and operation of the district.

Sec. 36.323. HEARING AND DETERMINATION OF PETITION. (a) The board shall hear and consider the petition and may add to the district the land described in the petition if it is considered to be to the advantage of the petitioner and to the existing district.

(b) If the district has bonds payable in whole or in part from taxation that are voted but unissued at the time of the annexation, the board may issue the voted but unissued bonds even though the boundaries of the district have been altered since the authorization of the bonds.

Sec. 36.324. RECORDING PETITION. A petition that is granted which adds land to the district shall be recorded in the office of the county clerk of the county or counties in which the land is located and the county or counties in which the existing district's principal office is located.

Sec. 36.325. ADDING CERTAIN TERRITORY BY PETITION. (a) Landowners of a defined area of territory not already in a district may file with any district a petition requesting inclusion in that district.

(b) The petition must be signed by:

(1) a majority of the landowners in the territory;

(2) at least 50 landowners if the number of landowners is more than 50; or

(3) the commissioners court of the county in which the area is located if the area is identified as a critical area or includes the entire county. The petition must describe the

land by legal description or by metes and bounds or by lot and block number if there is a recorded plat of the area to be included in the district.

Sec. 36.326. HEARING ON PETITION. The board by order shall set the time and place of separate hearings on the petition to include the territory in the district. At least one hearing shall be held in the existing district and one hearing shall be held in the territory to be added.

Sec. 36.327. RESOLUTION TO ADD TERRITORY. If the board finds after the hearing on the petition that the addition of the land would benefit the district and the territory to be added, it may add the territory to the district by resolution. The board does not have to include all the territory described in the petition if it finds that a modification or change is necessary or desirable.

Sec. 36.328. ELECTION TO RATIFY ANNEXATION OF LAND. (a) Annexation of the territory is not final until ratified by a majority vote of the voters in the territory to be added. An election in the existing district accepting the addition of land is not required.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "The inclusion of (briefly describe additional area) in the _____ District." If the district levies a property tax for payment of its maintenance and operating expenses, the proposition shall include the following language: "and the levy of a tax on property at a rate not to exceed _____ cents on each \$100 of assessed valuation for payment of maintenance and operating expenses of the district."

(c) The amount of the tax included in the proposition shall be the maximum amount that the district is authorized to levy. If the district has outstanding or authorized bonded indebtedness, the proposition shall include language providing for the assumption by the additional area of a proportional share of the bonded indebtedness of the district.

Sec. 36.329. NOTICE AND PROCEDURE OF ELECTION. The notice of the election, the manner and the time of giving the notice, the manner of holding the election, and qualifications of the voters are governed by the Election Code.

Sec. 36.330. LIABILITY OF ADDED TERRITORY. The added territory shall bear its pro rata share of indebtedness or taxes that may be owed, contracted, or authorized by the district to which it is added.

Sec. 36.331. ANNEXATION OF NONCONTIGUOUS TERRITORY. Land not contiguous to the existing boundaries of a district may not be added to or annexed to a district unless the land is located either within the same management area, critical area, or a groundwater subdivision designated by the commission or its predecessors.

[Sections 36.332–36.350 reserved for expansion]

SUBCHAPTER K. CONSOLIDATION OF DISTRICTS

Sec. 36.351. CONSOLIDATION OF DISTRICTS. (a) Two or more districts may consolidate into one district.

(b) Adjacent districts may consolidate portions of either district if one district relinquishes land within that district to the jurisdiction of the other district.

(c) A consolidation under this subchapter occurs if the board of each involved district adopts a resolution containing the terms and conditions of the consolidation.

Sec. 36.352. TERMS AND CONDITIONS OF CONSOLIDATION. (a) The terms and conditions for consolidation shall include:

- (1) adoption of a name for the district;
- (2) the number and apportionment of directors to serve on the board;
- (3) the effective date of the consolidation;
- (4) an agreement on finances for the consolidated district, including disposition of funds, property, and other assets of each district;
- (5) transfer of all permits issued in the area that is the subject of the consolidation to the consolidated district; and

(6) an agreement on governing the districts during the transition period, including selection of officers.

(b) The terms and conditions for consolidation may include:

(1) assumption by each district of the other district's bonds, notes, voted but unissued bonds, or other obligations;

(2) an agreement to levy taxes to pay for bonds;

(3) any other terms of conditions agreed upon by the board of each district.

Sec. 36.353. NOTICE AND HEARING ON CONSOLIDATION. (a) Each board shall publish notice and hold a public hearing within that district on the terms and conditions for consolidation of the districts.

(b) After the hearing, the board may, by resolution, approve the terms and conditions for consolidation and enter an order consolidating the districts.

Sec. 36.354. ELECTIONS TO APPROVE CONSOLIDATION. (a) An election to ratify the consolidation is required unless the districts to be consolidated meet the following requirements:

(1) the districts have not authorized or issued bonds and do not levy or assess taxes; or

(2) the consolidation would not result in any additional taxing or bonding authority for any of the districts, and would not require any district to contribute to the debt payments of any other district.

(b) The board shall order an election in each district to be consolidated only after the board of each district has agreed on the terms and conditions of consolidation. The directors of each district shall order the election to be held on the same day in each district. The election shall be held and notice given in the manner provided by the Election Code.

(c) The ballots for the election shall be printed to provide for voting for or against the proposition: "The consolidation of (names of the districts to be consolidated) in the _____ District." If the district levies a property tax for payment of its bonded indebtedness, the proposition shall include the following language: "and the levy of a tax on property at a rate not to exceed _____ cents on each \$100 of assessed valuation for payment of bonds." If the district levies a property tax for payment of its maintenance and operating expenses, the proposition shall include the following language: "and the levy of a tax on property at a rate not to exceed _____ cents on each \$100 of assessed valuation for payment of maintenance and operating expenses of the district."

(d) A district may be consolidated only if a majority of the electors in each district vote in favor of the consolidation. If more than two districts are consolidating, failure of any one district to ratify the consolidation shall not prevent the consolidation of the other districts.

Sec. 36.355. GOVERNING CONSOLIDATED DISTRICTS. (a) After two or more districts are consolidated, they become one district and are governed as one district.

(b) During the transition period, the officers of each district shall continue to act jointly as officers of the original districts to settle the affairs of their respective districts.

(c) If the consolidated district elects directors, directors for the consolidated district shall be elected in the same manner and for the same term as directors elected at a confirmation election. The directors' election shall be set for the next regular election.

Sec. 36.356. DEBTS OF ORIGINAL DISTRICTS. (a) After two or more districts are consolidated, the consolidated district shall protect the debts of the original districts and shall assure that the debts are not impaired. If the consolidated district has taxing authority, the debts may be paid by taxes levied on the land in the original districts as if they had not consolidated or from contributions from the consolidated district on terms stated in the consolidation agreement.

(b) If the consolidated district has taxing authority and assumes the bonds, notes, and other obligations of the original districts, taxes may be levied uniformly on all taxable property within the consolidated district to pay the debts.

Sec. 36.357. ASSESSMENT AND COLLECTION OF TAXES. If the consolidated district has taxing authority, the district shall assess and collect taxes on property on all property in the district for maintenance and operation of the district.

Sec. 36.358. VOTED BUT UNISSUED BONDS. If either district has voted but unissued bonds payable in whole or in part from taxation assumed by the consolidated district, the consolidated district may issue the voted but unissued bonds in the name of the consolidated district and levy a uniform tax on all taxable property in the consolidated district to pay for the bonds.

Sec. 36.359. FILING OF ORDER WITH COUNTY CLERK AND EXECUTIVE DIRECTOR. A consolidation order issued by the board shall be kept in the records of the consolidated district, recorded in the office of the county clerk in each of the counties in the consolidated district, and filed with the executive director.

SECTION 3. Section 151.003(b), Water Code, is amended to read as follows:

(b) Except as provided in this subsection, an adjoining county may be added to the district on application of the commissioners court of the adjoining county and by complying with the procedures provided in *Subchapter K, Chapter 36* [~~Sections 55.730–55.744 of this code, to the extent that those provisions are applicable~~]. Any county added to the district under this subsection is subject to the jurisdiction of the board and this chapter, and two members shall be added to the board. One shall be chosen by the commissioners court of the county added to the district and one shall be chosen by the mayor of the city that has the largest population in the county that is added. The two new members shall draw lots to establish staggered terms of office.

SECTION 4. Section 151.005(a), Water Code, is amended to read as follows:

(a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including *Chapter 36* [~~Chapters 50 and 52 of this code~~], applicable to *groundwater* [~~underground water~~] conservation districts created under Article XVI, Section 59, of the Texas Constitution.

SECTION 5. Section 151.005(c), Water Code, is amended to read as follows:

(c) Sections *36.104, 36.114, 36.117, 36.201, 36.202, 36.203, and 36.204* [~~52.1511, 52.156, 52.167, 52.168, 52.170, and 52.173 of this code~~] and *Subchapter I, Chapter 36*, [~~Subchapters B, C, H, I, J, and K of Chapter 52 of this code~~] do not apply to the district.

SECTION 6. Chapter 52, Water Code, is repealed.

SECTION 7. An election conducted by a district formerly governed by Chapter 52, Water Code, on August 14, 1993, at which voters in the district approved the levy of taxes for the district's maintenance and operating expenses, is validated in all respects as of the date on which the election occurred. A district's levy and collection of taxes, as approved by that election, and a district's subsequent acts and proceedings may not be held invalid on the grounds that the district was not authorized to levy the taxes or conduct the election.

SECTION 8. This Act takes effect September 1, 1995, and applies to all actions by a district or board taken after that date. Any provision of this Act relating to suits to which a district governed by this Act is a party shall only apply to suits filed on or after the effective date of this Act.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 3, 1995, by a non-record vote; the House refused to concur in Senate amendments to H.B. No. 2294 on May 26, 1995, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on H.B. No. 2294 on May 28, 1995, by a non-record vote; passed by the Senate, with amendments, on May 24, 1995, by a viva-voce vote; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.B. No. 2294 on May 29, 1995, by a viva-voce vote.

Approved June 16, 1995.

Effective September 1, 1995.